

**IN THE INCOME TAX APPELLATE TRIBUNAL  
GUWAHATI 'DB' BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 113/GTY/2025  
Assessment Year: 2020-21**

Afsana Begum <b>(Appellant)</b>	Vs.	ACIT, Circle-1, Guwahati <b>(Respondent)</b>
<b>PAN: AECPB3939F</b>		

**Appearances:**

**Assessee represented by** : S.P. Bhati, FCA.  
**Department represented by** : Santosh Kumar Karnani, Addl. CIT.  
Date of concluding the hearing : 24-November-2025  
Date of pronouncing the order : 11-December-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2020-21 dated 28.03.2025.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*"1. For that die learned A.O. has erred in law as well as in facts while framing assessment year.*

*2. For that the learned A.O. is not justified in making an addition to income u/s 2(22)(e) of Rs 2,25,28,000/- even when no payment either as loan or advance has been made during die F.Y. 19-20.*

*3. The Appellant craves the leave to take Additional Grounds and/or amend the above grounds of appeal at the time oi hearing of Appeal"*



3. Brief facts of the case are that the assessee is an individual and had filed her return of income u/s 139(4) showing total income of ₹53,54,920/-. The case was selected for scrutiny under Computer Assisted Scrutiny Selection (in short 'CASS') to verify the issues - (i) the assessee had purchased a high value property and paid large amount during the relevant previous year as per information in Form 26QB and the amount paid was significantly higher as compared to the income shown, the amount of investment in property as per Form 26QB was ₹6,50,00,000/- and (ii) the annual lettable value of the property shown in the ITR was very low in comparison to the high interest paid on borrowed capital in relation to such property. Statutory notices u/s 143(2) and 142(1) of the Act were issued and duly served upon the assessee. During the AY 2020-21, the assessee had purchased a house property situated at C-97, South Extension Part-II, New Delhi jointly with her husband Sri. S.K. Datta for a consideration of ₹13,00,00,000/- (assessee's investment share being 50% of the consideration). The assessee had submitted that the sources for the investment was out of housing loan availed from SBI jointly with her husband for an amount of ₹8,00,00,000/- (assessee's share being 50%). The assessee further stated that she had taken a loan from M/s. Royal Palace (India) Pvt. Ltd. of ₹2,45,00,000/- and furnished ledger confirmation from Royal Palace India Pvt. Ltd. for the FY 2018-19 and FY 2019-20. From the ledger confirmation of M/s. Royal Palace (India) Pvt. Ltd., the Assessing Officer (hereinafter referred to as Ld. 'AO') had noted that the assessee had repaid an amount of ₹13.70 lakhs during the FY 2019-20 and the balance outstanding was ₹2,12,18,000/- as on 31.03.2020. The balance of ₹5 lakh was stated to be out of income and savings. The Ld. AO also noted that the assessee was a whole-time director in M/s. Royal Palace



India Pvt. Ltd. with more than 10% shareholding. On verification of the balance sheet of M/s. Royal Palace (India) Pvt. Ltd. the Ld. AO found that the said company had reserves and surplus of ₹4.14 Crore during the FY 2019-20 and ₹4.16 crores during FY 2018-19. Based on the evidence available on record, the Ld. AO treated the loan advance of ₹2,25,28,000/- during the F.Y. 2019-20 as deemed dividend in view of the provisions of section 2(22)(e) of the Act and brought to tax u/s 56 of the Act. Since the assessee had not furnished any reply to the show cause notice as required, the Ld. AO assessed the total income of the assessee at ₹2,78,82,290/- u/s 143(3) r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who vide order dated 28.03.2025 partly allowed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. Our attention was drawn to page 3 para 3.2 of the assessment order and it was stated that no loan was received during the FY 2019-20 but repayment of loan amounting to ₹13.70 Lakh was made during the year. The Ld. AO added a sum of ₹2,25,28,000/- while the loan was advanced from 07.03.2019. Our attention was drawn to paper book page 1 to 14 which is a copy of the financial statement of the company M/s. Royal Palace (India) Pvt. Ltd. for the FY 2018-19 and it was submitted that as per the schedule, the loan was received in FY 2018-19 and not in the FY 2019-20. The assessee has relied upon to decisions in the cases of **Aswani Enterprises vs. Assistant Commissioner of Income Tax, Circle XV, Chennai [2018] 100**



**taxmann.com 178 (Madras)/[2019] 417 ITR 223 (Madras)[25-09-2018], Smt. Tarulata Shyam vs. Commissioner of Income-tax [1977] 108 ITR 345 (SC)[28-04-1977], Miss P. Sarada vs. Commissioner of Income-tax [1998] 96 Taxman 11 (SC)/[1998] 229 ITR 444 (SC)/[1998] 144 CTR 209 (SC)[09-12-1997]** in support of the claim that no addition could have been made on account of deemed dividend during the assessment year as no loan was received during the impugned A.Y. 2020-21.

6. It was also stated by the Ld. AR that as per the decision in the case of **Smt. Tarulata Shyam** (supra) (paper book page 48) the charge would come into operation at the time of payment of the loan by the company. Our attention was also drawn to the decision in the case of **Miss P. Sarada** (supra) at page 53 of the paper book para 8 and the decision of Hon'ble Madras High Court in the case of **Aswani Enterprises** (supra) at page 37 of the paper book. The provisions of section 4, section 8 and section 115-O of the Act were also brought to our notice specifically the proviso to section 115-O of the Act.

7. The Ld. DR on the other hand, drew our attention to paras 2 and 3.2 of the assessment order and requested that the direction may be issued for assessing the income in the relevant assessment year.

8. The Ld. AR drew our attention to the fact that the submissions of the assessee are mentioned in the assessment order but neither there is any cross objection nor any appeal filed by the Department, therefore, there was no question of issue of any direction. The Ld. DR countered by stating that the Department had won the appeal, therefore, there was no question of filing any appeal before the Tribunal. The Ld. AR submitted that the assessee had cooperated before the Ld. AO on



16.03.2022, 04.07.2022 and 04.08.2022 and at page 27 of the paper book the confirmation for the two years were filed. The company did have accumulated profit but the opening balance as on 01.04.2018 was at ₹10,72,000/- and confirmation of the accounts were also filed before the Ld. AO.

9. We have considered the submissions made. Apparently, the Ld. CIT(A) has confirmed the addition by giving his finding as under:

*“5.4.9 In conclusion the jurisprudence on the issue is clear as crystal that in scenarios such as in the instant case where the assessee cannot substantiate the business necessity or commercial expediency, as specified in language of the CBDT Circular relied upon by the appellant, behind receiving an advance from the company, courts have consistently upheld the AO’s addition of such amounts as deemed dividends under Section 2(22)(e). Therefore, in the absence of conclusive documentary evidence as required under the mandate of the law and as per detailed discussion, the action of the AO making addition under section 2(22)(e) is upheld and the relevant ground of appeal no. 1(a) and 1(b) is dismissed.”*

10. The assessee had filed additional evidences which were sent to the AO for a remand report. However, apparently the assessee did not raise this specific ground or argument before the Ld. CIT(A) that the loan was not received during the impugned assessment year despite filing certain documents. There were certain discrepancies in the resolution of the Board of Directors and the assessee was arguing on the ground of business necessity and commercial expediency in support of the claim that the loan did not constitute deemed dividend. As regards the Board’s resolution, the Ld. CIT(A) has discussed the same as under:

**“5.4.5 After going through Section 2(22)(e) of the Act, it is found that if advance or loan or any payment by the company is not in the nature of commercial transactions, it would fall within the ambit of the word ‘advance’ in Section 2(22)(e) of the Act. In its support, the appellant has provided copy of the Board Resolution passed on 22/11/2018 by Royal Palace (India) Pvt. Ltd. After going through it, it is found that the appellant has submitted only one page**



***of Board Resolution as additional evidence to the undersigned which was signed by the appellant herself along with her husband. Further, the said resolution does not bear the date or reference number. The credibility of that Page 19 of 25 document is doubtful. It is looking like an afterthought action of the appellant.***

11. Thus, the Board's resolution was not accepted by the Ld. CIT(A) nor any argument that the loan was received in the preceding year was raised or even adjudicated. Hence the facts need to be reconsidered and re-examined and, therefore, the order of the Ld. CIT(A) is set aside and the appeal is remanded to him to consider the entire facts of the case and to adjudicate the issue as to whether the liability for deemed dividend arose in the impugned A.Y. 2020-21. The Ld. DR has requested for directions to be issued for assessing the deemed dividend in the year in which the loan was received, however, we are not inclined to do the same in view of the matter being remanded to the Ld. CIT(A) for adjudicating the issue relating to the year in which the loan was received and the year in which the deemed dividend is liable to be assessed after examining the facts of the case. Since the company had the required reserves, the provision of section 2(22)(e) of the Act were applicable on the facts mentioned. However, it is to be seen as to in which year the income is liable to be assessed on account of deemed dividend. Therefore, after considering the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal to the Ld. CIT(A) for disposal of the grounds of appeal taken by the assessee on merits by passing a speaking order in accordance with law. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall



also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.

12. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

**Order pronounced on 11<sup>th</sup> December, 2025 under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.**

*Sd/-*

**[Manomohan Das]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 11.12.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Afsana Begum, Sontonza Complex, 5<sup>th</sup> Floor, 154, G S Road, Christian Basti, Dispur S.O., Guwahati, Assam, 781005.**
2. **ACIT, Circle-1, Guwahati.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata